

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JAMES PAIGE, JR.

PLAINTIFF

V.

CIVIL ACTION NO. 3:18-CV-765-SA-RP

METROPOLITAN SECURITY SERVICES, INC.,
*doing business as WALDEN SECURITY, WILLIAM
BARR,¹ Attorney General, United States Department
of Justice, GAYLEN KNUPP, in his official and
individual capacity, and BRANDON PRITCHARD,
in his official and individual capacity*

DEFENDANTS

ORDER

The Plaintiff filed his Complaint [1] on November 1, 2018. On April 26, 2019, Defendant William Barr filed his Motion [18] to Dismiss, or in the alternative, Motion for Summary Judgment. The Plaintiff then filed his First Motion for Leave to File [27] his First Amended Complaint on June 13, 2019 pursuant to Federal Rule of Civil Procedure 15(a)(2). On June 25, 2019, after recognizing an error in his First Motion [27], the Plaintiff filed a Motion [28] to Amend or Correct his proposed amended complaint.

The Court granted the Plaintiff's Motions [27] and [28] on July 18, 2019. The Plaintiff filed an Amended Complaint [34] on July 24, 2019 against Metropolitan Security Services, Inc. doing business as Walden Security, William Barr, Attorney General, United States Department of Justice, Gaylen Knupp, in his official and his individual capacity, and Brandon Pritchard, in his official and his individual capacity.

¹ When this case was filed, Jefferson B. Sessions, III, served as Attorney General of the United States and the Plaintiff named Sessions as a party. Under Federal Rule of Civil Procedure 25, an action does not abate when a public officer who is a party in an official capacity ceases to hold office while the action is pending. Instead, "the officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name. The court may order substitution at any time, but the absence of such an order does not affect the substitution." F.R.C.P. 25. Pursuant to Rule 25 William Barr, the current Attorney General, shall be named as a party in place of Jefferson B. Sessions, III.

Discussion

The Defendant William Barr's pending Motion [18] has been rendered moot by the subsequent filing of the Plaintiff's Amended Complaint [34]. *See generally Ware v. Sailum Co., Ltd.*, 2017 WL 50806, *2 (N.D. Miss. Feb. 23, 2017). “[A]n amended complaint supersedes [an] original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.” *Ellis v. Lowndes County*, 2017 WL 4678222, *1 (N.D. Miss. Oct. 17, 2017) (quoting *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994)). “Accordingly, when a motion to dismiss has been filed against a superseded complaint, the proper course ordinarily is to deny the motion to dismiss as moot.” *Id.*, see *Reyna v. Deutsche Bank Natl. Tr. Co.*, 892 F. Supp. 2d 829, 834 (W.D. Tex. 2012) (collecting cases).

Conclusion

For the reasons set forth above, the Defendant's Motion [18] to Dismiss or, in the alternative, Motion for Summary Judgment is DENIED *without prejudice* as moot.

SO ORDERED, this the 2nd day of August, 2019.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE